

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Yaoxiao Li, on behalf of herself and others
similarly situated,

Plaintiff,

-against-

Regency Health Care, Inc., d/b/a Regency
Healthcare Inc. d/b/a The Regency of Boro Park
L.H.C.S.A., Mark Moskowitz, Ethan Moskowitz,
Erika Toledo,

Defendants.

ANALISA TORRES, District Judge:

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22 Civ. 2850 (AT)

ORDER

Plaintiff, Yaoxiao Li, brings this action on behalf of herself and other similarly situated employees against Defendants for alleged violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201 *et seq.*, and the New York Labor Law, N.Y. Lab. L. §§ 190 *et seq.*, 650 *et seq.* ECF No. 1-1 ¶¶ 1, 57–102. Plaintiff originally filed this action in Supreme Court, New York County, on December 30, 2021. *See id.* Defendants removed the action to this Court on April 6, 2022. ECF No. 1. On April 21, 2022, Defendants filed an answer to the complaint. ECF No. 9. On August 17, 2022, Defendants informed the Court that Plaintiff requested Defendants’ consent to file an amended complaint. ECF No. 17. The proposed amended complaint would withdraw all claims under the FLSA, which gave this Court federal question subject matter jurisdiction over Plaintiff’s claims. *Id.* Defendants stated, “[I]n the event this Court permits Plaintiff to file the amended complaint, this matter should be remanded upon filing of the amended complaint.” *Id.* On August 18, 2022, the Court ordered Plaintiff to file an amended complaint. ECF No. 19. On September 2, 2022, Plaintiff did so. ECF No. 22.

The amended complaint does not contain any FLSA claims or any other basis that could support subject matter jurisdiction in this action. *See generally id.* “If subject matter jurisdiction is

lacking . . . the court has the duty to dismiss the action *sua sponte*.” *Durant, Nichols, Houston, Hodgson & Cortese-Costa P.C. v. Dupont*, 565 F.3d 56, 62 (2d Cir. 2009). The Court concludes that it lacks subject matter jurisdiction.

Accordingly, the matter is REMANDED, and the Clerk of Court is directed to remand the case to Supreme Court, New York County, and close the case.

SO ORDERED.

Dated: September 13, 2022
New York, New York



ANALISA TORRES
United States District Judge